



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52/62/81

[EPA-R03-OAR-2015-0311]; FRL-9928-68-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania;
2011 Lead Base Year Emissions Inventory**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Pennsylvania (Pennsylvania) State Implementation Plan (SIP). EPA is proposing to approve the 2011 base year emissions inventory SIP revision submittal for the 2008 lead National Ambient Air Quality Standards (NAAQS). The base year emissions inventory SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) on February 9, 2015 to meet the requirements of the Clean Air Act (CAA) for the Lyons 2008 lead NAAQS nonattainment area (hereafter referred to as the “Lyons Area” or “Area”). EPA is approving this revision to the Pennsylvania SIP in accordance with the requirements of the CAA.

DATES: This rule is effective on **[insert date 60 days after publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2015-0311 by one of the following methods:

- A. www.regulations.gov. Follow the on-line instructions for submitting comments.
- B. E-mail: fernandez.cristina@epa.gov.
- C. Mail: EPA-R03-OAR-2015-0311, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.
- D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2015-0311. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA

cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the SIP submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814-5787, or by e-mail at schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 2008 (73 FR 66964), EPA revised the lead NAAQS, lowering the level from 1.5 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to $0.15 \mu\text{g}/\text{m}^3$ calculated over a three-month rolling average. EPA established the NAAQS based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to lead emissions.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1) of the CAA. On November 22, 2010 (75 FR 71033), EPA promulgated initial air quality designations for the 2008 lead NAAQS, which became effective on December 31, 2010, based on air quality monitoring data for calendar years 2007-2009, where there was sufficient data to support a nonattainment designation. Designations for all remaining areas were completed on November 22, 2011, based on air quality monitoring data for calendar years 2008-2010. Effective December 31, 2010, the Lyons Area was designated as nonattainment for the 2008 lead NAAQS. This designation triggered a requirement for Pennsylvania to submit a SIP revision with a plan for how the Lyons Area would attain the 2008 lead NAAQS as expeditiously as practicable, but no later than December 31, 2015.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP revision under title I, part D of the CAA. This SIP revision must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable, but no later than the date required by the CAA, together with a base year emissions inventory, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP revision to EPA.

On December 29, 2014 (79 FR 77911), EPA took final action to determine that the Lyons Area (comprised of Kutztown Borough, Lyon Borough, Maxatawny Township, and Richmond Township) has ambient air quality monitoring data that shows the Area meets the 2008 lead

NAAQS. This clean data determination was based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 2008 lead NAAQS based on the calendar years 2009-2011 data. Pursuant to EPA's Clean Data Policy, once EPA finalizes a clean data determination, the requirements for the Area to submit an attainment demonstration, RACM, a RFP plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the Area continues to attain the 2008 lead NAAQS.

Since 1995, EPA has applied its interpretation under the Clean Data Policy in many rulemakings, suspending certain attainment-related planning requirements for individual areas, based on a determination of attainment. However, EPA notes that a final determination of attainment does not suspend requirements not related to attaining the NAAQS, such as the emissions inventory requirement found in CAA section 172(c)(3), which requires submission and approval of an inventory of actual emissions of lead from all sources in the nonattainment area (i.e., base year emissions inventory).

On February 9, 2015, Pennsylvania submitted a formal revision to its SIP that consists of the lead base year emissions inventory for the Lyons Area for the 2008 lead NAAQS.

II. Emissions Inventory Requirements

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the nonattainment area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008 lead NAAQS rulemaking, EPA finalized the guidance related to the emissions inventories requirements. The current

regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following requirements:

- States must develop and periodically update a comprehensive, accurate, current inventory of actual emissions from all sources affecting ambient lead concentrations;
- The SIP inventory must be approved by EPA as a SIP element and is subject to public hearing requirements; and
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year.

For the base-year inventory of actual lead emissions, EPA recommends using either 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.¹ For lead SIPs, the CAA requires that all sources of lead emissions in the nonattainment area must be submitted with the base-year inventory. In today's action, EPA is approving the base year emissions inventory SIP revision submitted by Pennsylvania on February 9, 2015, (hereinafter also referred to as "Pennsylvania's submission") as required by section 172(c)(3).

III. EPA Analysis of the Lyons 2011 Lead Base Year Emissions Inventory

EPA guidance for emissions inventory development provides that actual emissions should be used for purposes of the base year inventory.² On February 9, 2015, Pennsylvania submitted to EPA the 2011 base year emissions inventory for the lead point sources located within the Lyons Area. The Lyons Area has the following point sources of lead emissions: East Penn

¹ See EPA document titled "Addendum to the 2008 Lead NAAQS Implementation Questions and Answers" dated August 10, 2012, which is included in EPA's SIP Toolkit located at <http://www.epa.gov/air/lead/kitmodel.html>.

² *Id.*

Manufacturing Company's Richmond Township Facility; East Penn Manufacturing Company's Kutztown Facility; and McConway & Torley Kutztown Foundry. PADEP requires larger emitting facilities to report production figures and emission calculations annually. Throughput data are multiplied by emission factors based on source classification codes (SCC) to develop emission estimates.

PADEP submitted EPA's 2011 National Emissions Inventory (NEI) v2 data for nonpoint source lead emissions. The nonpoint source values for the Lyons Area were calculated using Berks County data apportioned by population, of which 4.1 percent (%) is included in the Lyons Area. EPA reviewed the results, procedures, and methodologies for Pennsylvania's submission and found them to be reasonable for calculating the lead base year inventory for CAA section 172(c)(3) and in accordance with 40 CFR 51.117(e). A more detailed description of the SIP submittal and EPA's evaluation is included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document or is also available electronically within the Docket for this rulemaking action.

IV. Final Action

EPA is approving Pennsylvania's submission consisting of the base year emissions inventory for the Lyons Area for the 2008 lead NAAQS. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's Federal Register, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **insert date 60 days from date of**

publication in the Federal Register] without further notice unless EPA receives adverse comment by **[insert date 30 days from date of publication in the Federal Register]**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S.

House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action to approve Pennsylvania's base year emissions inventory for the Lyons Area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, and Lead.

Dated: May 20, 2015.

William C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart NN-- Pennsylvania

2. Section 52.2036 is amended by adding paragraph (v) to read as follows:

§ 52.2036 Base year emissions inventory.

* * * * *

(v) EPA approves as a revision to the Pennsylvania State Implementation Plan the 2011 base year lead emission inventory for the Lyons, Pennsylvania nonattainment area for the 2008 lead NAAQS. This SIP revision was submitted by the Acting Secretary of the Pennsylvania Department of Environmental Protection, on February 9, 2015. This submittal consists of the 2011 base year inventories for all relevant sources in the Lyons, Pennsylvania nonattainment area for the pollutant lead (Pb).

[FR Doc. 2015-13945 Filed: 6/8/2015 08:45 am; Publication Date: 6/9/2015]